

1 R. Putnam - Direct 6  
2 conversation with Jackie Bradley, at any time did  
3 she recant her testimony saying that it was not, in  
4 fact, Cory Epps who fired the fatal shot?

5 THE WITNESS: She did not.

6 MR. SCHWEGLER: She never said it was not.  
7 Thank you. That's all I have.

8 THE COURT: Any redirect? Any further  
9 inquiry?

10 MR. COTTER: No redirect.

11 THE COURT: All right. Thank you.

12 MR. COTTER: At this time the movant rests.

13 THE WITNESS: I may step down?

14 THE COURT: Yes. There's no further  
15 questions.

16 MR. SCHWEGLER: People call Mark Stambach.

17 THE CLERK: Thank you. Please be seated.

18 THE WITNESS: Thank you.

19 THE CLERK: Please state your name for the  
20 record, spelling your last name.

21 M A R K R. S T A M B A C H, being duly called and  
22 sworn as a witness on behalf of the People, took the stand  
23 and testified as follows:

24 THE CLERK: City, town or village in which you  
25 reside or work?

M. Stambach - Direct

7

THE WITNESS: City of Buffalo.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. SCHWEGLER:

Q. Sir, you are currently a Buffalo homicide detective, is that correct?

A. Yes sir.

Q. How long have you been working homicide?

A. For over a period of ten years.

Q. How long have you been a Buffalo police officer all told?

A. Since 1971. Over thirty years.

Q. Detective, let me direct your attention back to April 27th of 1998. Were you working in your capacity as a hom -- I'm sorry, April 17th of 1998. Were you working in your capacity as a homicide detective the early morning hours of that date?

A. Yes sir, I was.

Q. And on that date, in the early morning hours, approximately seven thirty a.m., was a young black woman, age twenty-three, at the time in your presence?

A. Yes, she was.

Q. And is her name known to you as Wymeka Anderson with a street name of Pumpkin?

1 M. Stambach - Direct

8

2 A. Yes.

3 Q. At that time, did you take a sworn statement from  
4 Pumpkin regarding -- Ms. Anderson regarding the homicide of  
5 one, Paul Pope, who had been killed the day before?

6 A. Yes sir, I did.

7 Q. She had a personal relationship with Mr. Pope, is  
8 that correct, did you come to find that out?

9 A. Yes. Mr. Pope, the deceased, was her boyfriend  
10 for over a period of ten years.

11 Q. How much time did you spend with Ms. Anderson  
12 that morning -- let me go back. You took a statement from  
13 her, is that correct?

14 A. Yes sir.

15 Q. Do you know --

16 A. At seven thirty in the morning.

17 Q. How much time did you spend with Miss Anderson  
18 prior to the statement beginning?

19 A. About five or ten minutes. We had reported for  
20 duty at approximately seven p.m., we came into the briefing  
21 room and were told that there had been a homicide that  
22 occurred, there were several witnesses to take statements  
23 from. We gathered up Miss Anderson and placed her into an  
24 interview room. That would be myself and Detective James  
25 Giardina. That's G-i-a-r-d-i-n-a. Myself, Detective

1 M. Stambach - Direct 9

2 Giardina and Miss Anderson were the only ones that walked  
3 into the interview room.

4 Q. And how long was the -- did it take to get this  
5 written statement from Ms. Anderson? And let me show you 3  
6 for identification, do you recognize this statement, or that  
7 document?

8 A. Yes. This is a sworn statement of Miss Anderson.  
9 The statement started at seven thirty a.m. in the morning,  
10 and it was stopped at eight twenty a.m. that morning and then  
11 she then read it, it was initialled by all of us, whereas she  
12 affixed her signature to it after she read each page.

13 Q. All right. How much time was Ms. Anderson in  
14 your presence or in your -- and in your office after the  
15 completion of that statement at eight twenty?

16 A. I would say -- after the statement?

17 Q. Correct.

18 A. A matter of ten or twenty minutes and then she  
19 was taken home.

20 Q. She was given a ride home?

21 A. Yes sir.

22 Q. Okay. So from the time you first -- was that the  
23 first time you met Miss Anderson?

24 A. Yes. I -- again, I had just walked in and  
25 reported for duty and I was informed that they had some

1 M. Stambach - Direct 10  
2 witnesses, we took one of them into the -- an interview room  
3 and we took a statement from her.

4 Q. During any of your time or contact with Ms.  
5 Anderson, did she mention anything whatsoever about another  
6 homicide, that being the homicide of a young lady by the name  
7 of Tamika Means?

8 A. No sir.

9 Q. I don't mean just specific information,  
10 Detective, I mean any comment whatsoever, was any comment  
11 remotely associated with another homicide made to you by  
12 Ms. Anderson?

13 A. No, not in my presence. No.

14 Q. Detective Giardina was present through the entire  
15 statement?

16 A. Yes, he was.

17 Q. And then acted as a witness?

18 A. Yes. I swore her in, and Detective Giardina was  
19 the witness.

20 Q. All right. Did any detective in your squad or  
21 any Buffalo police officer, anyone else for that matter, ever  
22 say to you any comment about Ms. Anderson speaking of the  
23 Tamika Means homicide?

24 A. No sir.

25 MR. SCHWEGLER: That's all I have. Nothing

1 M. Stambach - Cross

11

2 further.

3 CROSS EXAMINATION

4 BY MR. COTTER:

5 Q. Detective Stambach?

6 A. Yes.

7 Q. Now, you reported for duty at seven p.m. did you  
8 say?

9 A. Seven a.m.

10 Q. Seven a.m. that morning?

11 A. Yes sir.

12 Q. On April 17th?

13 A. Yes sir.

14 Q. Your partner was James Giardina?

15 A. We reported for duty that day together.

16 Q. Together?

17 A. Yes sir.

18 Q. You're positive of that day? Can I ask you what  
19 you're looking at?

20 A. That statement that's directly in front of you.

21 Q. Which is?

22 A. The statement of Wymeka Anderson.

23 Q. Okay.

24 A. I believe that is my tour of duty, seven o'clock  
25 until five o'clock in the afternoon.

1 M. Stambach - Cross 12

2 Q. And the two of you, Giardina and Stambach, would  
3 have reported for duty at the same time?

4 A. I'm Detective Stambach. Detective Giardina, my  
5 partner, we did report for duty at the same time, we're  
6 partners.

7 Q. Okay. That's -- I just wanted to make sure  
8 that's true.

9 A. Yes.

10 Q. Okay. Now is it -- it's your practice not to  
11 keep any handwritten notes during an interview, correct?

12 A. I don't have any, no.

13 Q. Is it your practice to keep handwritten notes?

14 A. On some occasions when I go to a crime scene I do  
15 make handwritten notes, yes.

16 Q. Your testimony is you have no handwritten notes?

17 A. Not on this particular case, no, not that I could  
18 find.

19 Q. You didn't tape record this interview?

20 A. No, I did not tape record the interview or the  
21 sworn statement.

22 Q. And other than this document that is Defendant's  
23 3, you didn't issue any reports relative to your interview of  
24 Wymeka Anderson on April 17th, '98?

25 A. I believe there's a P-73, which is an



1 M. Stambach - Cross 13  
2 interdepartmental correspondence indicating that we took her  
3 statement. That's all that that would say, that we met with  
4 her and took a statement.

5 Q. Now you were not at 239 Dewey prior to Miss  
6 Anderson coming to the homicide bureau chief, or bureau  
7 office?

8 A. No sir, I don't believe so.

9 Q. Now at some point is it fair to assume that at  
10 some point after April of 1998, you became aware that Wymeka  
11 Anderson was stating her belief that Russell Montgomery  
12 killed Tamika Means?

13 A. I don't follow you, Counselor.

14 Q. Okay.

15 MR. SCHWEGLER: Your Honor, I would object to  
16 the relevance at this point. Our focus I believe  
17 is as to whether or not there was Brady material  
18 generated. Her claim was that she made this  
19 statement in the Homicide Office to these  
20 detectives. I think subsequent statements are --  
21 are irrelevant.

22 THE COURT: Well, we're not speaking of Brady  
23 material per se. We're speaking of whether or not  
24 there was or was not such information conveyed to  
25 the Homicide Squad by Miss Anderson and when. So



M. Stambach - Cross

14

right now dealing with 4/17/98, which would have paralleled or preceded -- paralleled I guess is the word, the trial of Mr. Epps, and that's our focus as to -- as to whether any information was conveyed to the Homicide Bureau relative to Miss Anderson's subsequent claim of information and I think his question was did there ever come a time later and I believe there was following an anonymous -- perhaps an anonymous letter received at the time of sentence or either the 330.30 motion, it was my general understanding that the homicide department may have looked into that and whether or not he did or did not would have been the area of relevance. Is that where your inquiry takes you or not?

MR. COTTER: I think --

THE COURT: I'll allow the question to be asked. Up until the time that this hearing was generated, had anybody advised you that Miss Anderson had indicated that she had claimed information of hearsay character coming from Paul Pope that Russell Montgomery was responsible for the death of Tamika Means?

THE WITNESS: I did not get that information. The only information I got was that there was a

1 M. Stambach - Cross 15  
2 hearing today and prior to that in regards to a  
3 letter written by Tamika -- I'm sorry, by Miss  
4 Anderson. I just learned of it just recently. I  
5 had no other information about it. That's why  
6 we're here for today.

7 MR. COTTER: You're talking about sometime in  
8 May or June of 2001?

9 THE WITNESS: No. I was notified for this  
10 hearing and another hearing that was adjourned and  
11 I was asked specifically about this statement and  
12 it's the same as my testimony right now. That's  
13 the first I became aware of the letter. It wasn't  
14 addressed to me. I never knew anything about it.  
15 This was not my homicide case.

16 THE COURT: I was about to ask you whether or  
17 not you participated in the investigation into the  
18 Tamika Means homicide.

19 THE WITNESS: No, I just took a statement in  
20 this particular case from a witness. That's my  
21 involvement, that's why I'm here today.

22 Q. Do you ever take handwritten notes of an  
23 interview at the Homicide Bureau?

24 A. Yes. Sometimes I do.

25 Q. Okay. To be -- so I can be clear, you reported

1 M. Stambach -- Cross 16

2 for duty at seven a.m.?

3 A. That is correct.

4 Q. Shortly before taking the statement?

5 A. Yes.

6 Q. You weren't at Ms. Anderson's house when the  
7 alarm went off?

8 A. We did respond to an address over on Leroy Street  
9 near the corner of Fillmore and there was an alarm, that one  
10 had been gone off at that particular address.

11 Q. And that was on the 16th?

12 A. That would be on the 17th, prior to the  
13 statement. I believe that's the day that it happened.

14 Q. Well, is there any recollection -- let me try --  
15 excuse me. Do you recall a time when you and Detective  
16 Giardina stood up and exited the witness room during the  
17 course of Miss Anderson's statement on April 17th, '98?

18 A. It's on the statement itself.

19 Q. Perhaps this is a bad photocopy.

20 A. Do you have a copy?

21 Q. Yes, I do. Can you direct my attention?

22 A. Sure. It says eight twenty a.m., it also says it  
23 started at seven thirty a.m. Excuse me, that's about ten  
24 minutes different than my testimony.

25 Q. Okay. My question to you, sir, was whether you

1 M. Stambach - Cross 17

2 recall a particular time during your interview of Miss  
3 Anderson when you and Detective Giardina left the witness  
4 room?

5 A. I don't believe so, no.

6 Q. Your testimony is you don't recall?

7 A. That's correct.

8 Q. Okay. Now do you recall Miss Anderson  
9 referencing an Identi-sketch after you had asked her what  
10 Russell Montgomery looks like?

11 A. I'm not familiar with an Identi-sketch.

12 Q. You don't know what an Identi-sketch is?

13 A. No sir, I don't.

14 Q. Okay. If I were to show you Defendant's 1, what  
15 would you characterize that document as being?

16 A. Identi-kit.

17 Q. Identi-kit?

18 A. Yes.

19 Q. Do you recall when she mentioned an Identi-kit?

20 A. No. Absolutely not. I have never seen this.

21 Q. Never before?

22 A. Never.

23 Q. Okay. Okay. Now who did the typing of Ms.  
24 Anderson's statement?

25 A. I did.

1 M. Stambach - Cross 18

2 Q. And who asked her questions?

3 A. Some of them by me and some of them by Detective

4 Giardina.

5 Q. And over the course of the fifty minutes that the

6 statement was taken, how many breaks did you take?

7 A. Not very many.

8 Q. What would you do during the break or what did

9 you do during the breaks?

10 A. Sit there and formulate our next question.

11 Q. Subsequent to April 17th, 1998, did you ever run,

12 or meet Wymeka Anderson again?

13 A. Subsequent to April 17th?

14 Q. Yes.

15 A. I believe I did. Yes.

16 Q. Was that in the beginning of June?

17 A. I can't recall. It was in regards to a dog bite

18 case. A child had been bitten by a dog. It was a civil

19 case.

20 Q. Were you present when Miss Anderson told members

21 of the Homicide Bureau that she was the authoress of an

22 anonymous letter --

23 A. No.

24 Q. -- that had been submitted in this case?

25 A. No sir, I was not present.

1 M. Stambach - Cross 19

2 MR. COTTER: Nothing further, Judge.

3 MR. SCHWEGLER: No redirect, your Honor.

4 THE COURT: When you spoke to Miss Anderson,  
5 and I don't wish to mischaracterize her prior  
6 testimony, but I seem to recall her saying that she  
7 was queried by a homicide detective as to what  
8 Russell Montgomery looked like and that somehow she  
9 responded he looks just like the sketch of the  
10 person who committed the murder or --

11 MR. SCHWEGLER: That was her letter, Judge, I  
12 believe.

13 THE COURT: Pardon?

14 MR. SCHWEGLER: I believe that was the letter  
15 that she sent anonymously to Mr. LoTempio, not the  
16 statement.

17 THE COURT: Like I said, I don't mean to  
18 mischaracterize her testimony, but there was  
19 reference to the fact, either in the letter or in  
20 her conversations with the police, that the police  
21 apparently are now looking for Russell Montgomery  
22 because he was the person who is said to have  
23 killed Paul Pope, that they queried her what he  
24 looked like inasmuch as she is his girlfriend and  
25 at this point it is alleged that she said, he looks

1 J. Giardina - Direct 20  
2 exactly like this sketch or words to that effect.  
3 I seem to recall that from the testimony. I could  
4 stand corrected. My only question is, do you  
5 recall any such conversation or any such  
6 references?

7 THE WITNESS: No sir, it wasn't given to me in  
8 the interview or in the statement.

9 THE COURT: Anything further?

10 MR. SCHWEGLER: No, your Honor. Detective  
11 Giardina, please.

12 THE CLERK: Thank you. Please be seated.  
13 Please state your name for the record, spelling  
14 your last name.

15 J A M E S G I A R D I N A, being duly called and  
16 sworn as a witness on behalf of the People, took the stand  
17 and testified as follows:

18 THE CLERK: City, town or village in which you  
19 reside?

20 THE WITNESS: Amherst, New York.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. SCHWEGLER:

24 Q. Sir, you're a detective in the Buffalo Police  
25 Department Homicide Squad?